

**REMARKS:**

In the (First) Office Action to which this Response applies, the Examiner stated certain objections and made certain rejections. Applicants attempt to address each in the order made.

**Generic/Species Restriction/Election Requirement:**

On page 2 of the Office Action, the Examiner suggests a number (five or more) of species claims and the absence of a generic claim; therefore, suggests that in the absence of an allowable generic claim, then restriction to an elected species will apply.

For response to said objection, Applicant has amended Claim 1 and cancelled original Claim 5, and respectfully suggests that the effect of these two actions result in presently presented Claims 1 through 5 being claims which are generic to the remainder of the presently presented claims (namely Amended Claims 1 through 5 representing tank and associated pipe and valving means for interconnection into a two-pipe hydronic air-conditioning system, Amended Claims 6 through 10 representing parallel interconnection into said two-pipe hydronic air-conditioning system; and, Amended Claims 11 through 15 representing series interconnection into said two-pipe hydronic air-conditioning system).

Respectfully submitting that the amendments to the claims, as above, cure the "Generic/Species" objection of the First Office Action and therefore that no election need be made, Applicants alternatively elect (if the Examiner should find after consideration of this Response that election still needs to be made) prosecution of Claims 11 through 15 (represented by FIGS. 5, 6 and 7) in this Application (with the understanding that said claims would have to be rewritten to include the limitations of their respective parent claims to be allowable).

**Objections to the Disclosure:**

In the (First) Office Action the Examiner objected to certain informalities stated at the bottom of page 3 of said Office Action. With apologies, and unable to understand the reasons for the apparent discrepancy, Applicants are unable to locate the alleged informalities (the supposedly missing "e's") on the copy of the original application contained in Applicants' (and their attorney's) file, and respectfully request the Examiner review the Application before him, and if said informalities are confirmed to appear thereon, to confer with Applicants' attorney in attempt to resolve the discrepancies between the application on file with the Patent Office and Applicants' file copy of same. It is possible some error was made in copying and/or transmittal of the application.

**Section 112 Rejection:**

The rejection at the top of page 4 of the Office Action, as far as Applicant can tell, is founded upon language of Original Claim 1, which language (of Claim 1) has now been amended, thus this rejection is now moot.

**Section 102(b) or 103(a) Rejections over Newton '155:**

In the (First) Office Action, Claims 1, 5, 6 and 10 were rejected as anticipated (Section 102(b)) or alternatively, made obvious (Section 103(a)) by Newton (3,384,155). Applicants respond by suggesting disagreement and by noting that Claim 1, from which the other claims rejected under Section 102(b) depend, has been amended (and the claims, as presently presented are not anticipated or made obvious by Newton '155).

Regarding Applicants' disagreement, Applicants would respectfully note the following differences between Newton '155 and the claims now in issue:

- a) Newton '155 does not pertain to a two-pipe hydronic air-conditioning system, but a one-pipe hydronic air-conditioning system;
- b) Newton '155 contains two tanks;

- c) The two tanks of Newton '155 are not connected in parallel to the heater and chiller of Newton '155; and,
- d) The two tanks of Newton '155 do not have the valving arrangement described by Claim 1, namely: which allow water to be introduced or withdrawn from either end of said tanks, which allow said tanks to be completely fluidly isolated from the remainder of the hydronic air-conditioning system; or, which allows complete by-pass of the heater and chiller of the hydronic air-conditioning system (which complete isolation or by-pass requires the four-valve arrangement of Applicants' invention, contrary to the Examiner's statement; otherwise, two three-way valves will not allow these operational alternatives).

Accordingly, Applicants respectfully suggest that Newton '155 does not anticipate or make obvious Amended Claim 1. Applicants further respectfully suggest Claim 5 has been cancelled, and further that Newton '155 also does not anticipate or make obvious Amended Claims 6 and 10.

**Section 103(a) Rejections over Newton '155 in combination with Tamblyn '571, Karl '785, Tamblyn '992 or Yamaoka '352:**

In the (first) office action, the Examiner also suggests that:

- a) Claims 1, 4, 5, 6, 9 and 10 are made obvious by Newton '155 in view of Tamblyn et al, '571;
- b) that Karl '785 establishes that "two two-way are equivalent to a single three-way valve"; and,
- c) that Claims 2, 3, 7 and 18 are made obvious in view of any of the prior art as applied to Claim 1 in further view of Tamblyn '992 or Yamaoka '352.

Applicants respectfully submit that Newton, either alone or in combination with any of the above cited prior art, renders Applicants' invention (as represented by the amended claims) obvious.

In the first instance, Applicants would respectfully note that original Claim 5 has been cancelled, rendering rejections to said claim (exemplified in FIG. 8) moot.

In the second instance, Applicants would respectfully note that the Examiner has previously indicated that Claims 11 through 15 (the species alternatively elected if the Examiner holds, upon reconsideration, that restriction is required) would be allowable if amended to include the limitations of their respective parent claims. If election is required, these claims will be rewritten as the Examiner suggests. Therefore, Applicants respectfully submit no further argument need be made as to these claims.

In the third instance, Applicants would respectfully suggest that the amendments to Claims 1 through 10 made in response to the Office Action, in combination with the observations above regarding Newton '155, overcome the obviousness rejections made to Original Claims 1 through 10. Namely, Applicants respectfully suggest neither Newton nor any of the prior art cited pertains to a *two-pipe* air-conditioning system, much less show the specific tank, pipe and four-valve means arrangement of Claim 1 connected in parallel with the heater/chiller means of said two-pipe air-conditioning system. As noted above, the specific arrangement of amended Claim 1 allows functional alternatives in a two-pipe air-conditioning system not noted (described, claimed, suggested or otherwise taught) in any of the art cited by the Examiner. While it is true that the prior art cited features various thermal storage means, they do not suggest application of said storage means in a two-pipe hydronic air-conditioning system with the specific piping and valving arrangement disclosed by Applicants' invention. Applicants, with respect, specifically refer to the

Examiner's statement regarding presumed equivalency between a single three-way valve and two two-way valves. While it may be sometimes true that a three-way valve is equivalent to two two-way valves, this is not always so, and is not so with respect to the invention in question. Namely, the unique four-valve arrangement featured by Claims 1 through 10 in Applicants' invention allows either end of the thermal storage means (tank) to be used for either hot or cold water, the entire thermal storage means (tank) to be completely isolated from the remainder of the system and allows the thermal storage means to be by-passed (water circulated through neither heater, chiller nor thermal storage means). Use of two three-way valves would not allow these functional attributes. Accordingly, Applicants respectfully suggest that none of the cited prior art discloses, suggests or otherwise in any manner teaches these functional attributes of a thermal storage means in a two-pipe hydronic air-conditional system, thereby defining patentably distinct subject matter of Claims 1 through 10 as amended. Accordingly, Applicants respectfully request reconsideration of the Section 103(a) rejections as applied to Claims 1 through 10 as amended.

For these reasons, we respectfully submit the claims, as now amended, should be found allowable.

#### **CONCLUSION:**

For all of the above reasons, Applicants submit that the claims are in proper form and that the claims define patentable subject matter over the cited prior art. Therefore, Applicants respectfully request that the amendments be entered into the case, submit that the amended claims place this application in condition for allowance, and respectfully request allowance thereof.

Applicants further respectfully requests early consideration of this Response and

allowance thereafter. Should the Examiner believe that a telephonic interview would be helpful in resolving any further questions, please contact the undersigned at the listed telephone number.

A duplicate copy of this letter is attached.

Respectfully submitted,



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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendments, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450, on August 8, 2005.

**JOSEPH L. LEMOINE, JR.**

**Name of Registered Representative**

**Signature**

**August 8, 2005**

**Date of Signature**